

AMENDED IN SENATE JUNE 17, 2008

AMENDED IN ASSEMBLY APRIL 21, 2008

AMENDED IN ASSEMBLY APRIL 10, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2426

Introduced by Assembly Member Cook

February 21, 2008

An act to ~~amend Section 25620 of~~ *add Section 25503.41 to the* Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2426, as amended, Cook. Alcoholic beverages: ~~state parks: open containers.~~ *brewpub restaurants.*

The Alcoholic Beverage Control Act contains limitations on sales commonly known as “tied-house” restrictions, which generally prohibit a manufacturer, winegrower, manufacturer’s agent, California winegrower’s agent, rectifier, distiller, bottler, importer, or wholesaler from owning any interest in an on-sale or off-sale license, licensee, or licensed premises. Existing law contains various exemptions from this restriction on tied interests.

This bill would permit a person that operates an out-of-state winery and produces a limited amount of distilled spirits in another state to obtain a brewpub-restaurant license, provided specified conditions are met.

The Alcoholic Beverage Control Act provides that a violation of specified tied-house provisions is punishable as a misdemeanor. This bill, by including provisions that would be subject to those existing criminal sanctions, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under the Alcoholic Beverage Control Act, any person possessing an open container of an alcoholic beverage in any city or county park area or adjacent public space, as specified, or any regional park or recreation and park district, is guilty of an infraction if the city or county has enacted an ordinance that prohibits the consumption of alcoholic beverages in those areas, except as specified.~~

~~This bill would also prohibit, as an infraction, the possession of an open container of an alcoholic beverage in an area or unit of a state park if the district superintendent of the state park system unit or area has posted an order, in accordance with state park policy and other specified procedures, that prohibits the consumption of alcoholic beverages in those areas, except as specified.~~

~~This bill would impose a state-mandated local program by expanding the scope of an existing crime.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25503.41 is added to the Business and
- 2 Professions Code, to read:
- 3 25503.41. (a) Notwithstanding any other provision of this
- 4 division, any person that both operates a winery in another state
- 5 and produces distilled spirits in another state may obtain a
- 6 brewpub-restaurant license, as authorized by Section 23396.3,
- 7 provided that all of the following conditions are met:
- 8 (1) The out-of-state distilling operations occur only on premises
- 9 where the licensee also conducts brewpub-restaurant operations,

1 and do not exceed 12,000 gallons of distilled spirits annually at
2 any licensed location.

3 (2) The out-of-state winery operations occur only on premises
4 where the licensee also conducts brewpub-restaurant operations.

5 (3) The distilled spirits and wine that are manufactured out of
6 state by the licensee are not imported into or sold in this state. If
7 the licensee imports beer into this state that is produced in its
8 out-of-state brewpub, it shall do so only through a licensed beer
9 and wine wholesaler.

10 (b) The Legislature finds that it is necessary and proper to
11 require a separation between manufacturing interests, wholesale
12 interests, and retail interests in the production and distribution of
13 alcoholic beverages in order to prevent suppliers from dominating
14 local markets through vertical integration and to prevent excessive
15 sales of alcoholic beverages produced by overly aggressive
16 marketing techniques. The Legislature further finds that the
17 exception established by this section to the general prohibition
18 against tied interests must be limited to its expressed terms so as
19 not to undermine the general prohibition, and intends that this
20 section be construed accordingly.

21 SEC. 2. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

30 SECTION 1. ~~Section 25620 of the Business and Professions~~
31 ~~Code is amended to read:~~

32 ~~25620. (a) Any person possessing any can, bottle, or other~~
33 ~~receptacle containing any alcoholic beverage that has been opened,~~
34 ~~or a seal broken, or the contents of which have been partially~~
35 ~~removed, in any city, county, or city and county owned park or~~
36 ~~other city, county, or city and county owned public place, or any~~
37 ~~unit or area within the state park system, or any recreation and~~
38 ~~park district, or any regional park or open-space district shall be~~
39 ~~guilty of an infraction if the city, county, or city and county has~~
40 ~~enacted an ordinance, or the district superintendent of the state~~

1 park system has posted an order, approved by the Director of Parks
2 and Recreation, and posted in accordance with state park policy
3 and subdivision (b), that prohibits the possession of those
4 containers in those areas or the consumption of alcoholic beverages
5 in those areas.

6 (b) (1) The district superintendent of the state park system shall,
7 at least 30 days before posting the order specified in subdivision
8 (a), do both of the following:

9 (A) Provide public notice of the proposed order.

10 (B) Provide the public with an opportunity to comment on the
11 proposed order.

12 (2) The public notice specified in paragraph (1) shall be made
13 in a manner that will provide the public with sufficient time to
14 review and comment on the proposed order.

15 (c) This section does not apply where the possession is within
16 premises located in a park or other public place for which a license
17 has been issued pursuant to this division.

18 (d) This section does not apply when an individual is in
19 possession of an alcoholic beverage container for the purpose of
20 recycling or other related activity.

21 SEC. 2. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.